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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/775,653	02/10/2004	Steve Navarro	NAV-001	1451

49543 7590 11/10/2005
LAW OFFICES OF TIMOTHY M. BARLOW
P.O. BOX 64775
TUCSON, AZ 85728-4775

EXAMINER

NGUYEN, XUAN LAN T

ART UNIT PAPER NUMBER

3683

DATE MAILED: 11/10/2005

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/775,653
Filing Date: February 10, 2004
Appellant(s): NAVARRO, STEVE

Timothy M. Barlow
For Appellant

EXAMINER'S ANSWER

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This is in response to the appeal brief filed 8/3/05 appealing from the Office action mailed 4/21/05

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

4653770

PYLE

3-1987

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

A. Claims 1, 4, 7, 10 and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Pyle.

Re: claim 1, Pyle shows self-contained trailer braking system, as in the present invention, comprising: a fifth wheel hitch attached to a trailer frame, where the trailer hitch further comprises a kingpin 11 to engage a fifth wheel of a towing vehicle, as shown in figure 2; a sliding mechanism 16 attached to the kingpin 11, where the sliding mechanism 16 is slidably captured within the trailer frame and can move between a forward position and a rear position, as shown in figure 2, a spring 43 attached to the sliding mechanism and the trailer frame, where the spring biases the sliding member to the forward position, a brake actuator 41 mounted to the trailer frame and linked to the sliding mechanism; a brake assembly attached to the brake actuator, not illustrated but inherent; and a power supply 36 attached to the brake assembly, where power is applied to the brake assembly when the sliding mechanism is away from the forward position.

Re: claim 4, Pyle shows spring 43 to be a coil spring.

Re: claim 7, Pyle further shows the lock mechanism 56.

Re: claim 10, Pyle shows hydraulic master cylinder 36.

Re: claim 11, Pyle shows shock absorber 26.

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B. Claims 2, 3, 5, 6, 8, 9 and 12-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pyle and Applicant's admitted prior art, page 4 of the specification.

Re: claims 2, 8 and 9, Pyle shows the energy to be hydraulic while the instant invention claims an internal combustion engine (note that internal combustion engines are normally present in construction vehicles and would have been available as a power supply to the brake system), a pneumatic energy and an electrical energy. Page 4 of the instant application admits that brake systems are normally operated with pneumatic, electric or hydraulic energy. Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have employed one of the pneumatic, electric or hydraulic energy to operate the brake system; since all of these types of energies are considered old and well known and are readily available for use with a trailer brake system.

Re: claims 3, 5 and 6, the Examiner takes an Official Notice that a torsion bar, a pneumatic spring and a leaf spring are art equivalences of a coil spring and would have been obvious to one of ordinary skill in the art at the time the invention was made to have employed one of these springs as a biasing means since they are considered to be art equivalences and any of these types of springs would have accomplished the same biasing task.

Re: claim 12, Pyle shows self-contained trailer braking system, as in the present invention, comprising: a fifth wheel hitch attached to a trailer frame, where the trailer hitch further comprises a kingpin 11 to engage a fifth wheel of a towing vehicle, as shown in figure 2; a sliding mechanism 16 attached to the kingpin 11, where the sliding

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mechanism 16 is slidably captured within the trailer frame and can move between a forward position and a rear position, as shown in figure 2, a coil spring 43 attached to the sliding mechanism and the trailer frame, where the spring biases the sliding member to the forward position, a brake actuator 41 mounted to the trailer frame and linked to the sliding mechanism; a brake assembly attached to the brake actuator, not illustrated but inherent; and a power generator 36 attached to the brake assembly, where hydraulic energy is applied to the brake assembly when the sliding mechanism is away from the forward position. Pyle shows the energy to be hydraulic while the instant invention claims a pneumatic energy. Page 4 of the instant application admits that brake systems are normally operated with pneumatic, electric or hydraulic energy. Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have employed one of the pneumatic, electric or hydraulic energy to operate the brake system; since all of these types of energies are considered old and well known and are readily available for use with a trailer brake system.

Re: claims 13 and 14, Pyle shows shock absorber 26 and lock mechanism 56.

(10) Response to Argument

Re: claim 1, Appellant argues in page 7 of the brief that Pyle does not disclose the claimed brake system of claim 1 because Pyle does not teach a fifth wheel hitch that is within the trailer frame and also claim 1 requires a kingpin on the trailer.

First, claim 1 claims "where the sliding mechanism is slidably captured within the trailer frame". Looking at figure 7 of Pyle, one can see that the sliding mechanism of Pyle is slidably captured within the trailer frame 12. It is believed that Appellant's

argument is more specific than the claimed language. Claim 1 does not define the trailer frame in details and how the sliding mechanism is slidingly captured within. It is maintained that Pyle does show the sliding mechanism to be slidingly captured within the trailer frame 12 as shown in figure 7.

Secondly, claim 1 does not specify "a kingpin on the trailer" as argues by Appellant. Claim 1 simply states "a kingpin" following by the functions that a kingpin would be capable of performing. It is maintained that Pyle simply teaches a kingpin 11.

Re: claims 2, 8 and 9, Appellant argues that the power source of an internal combustion engine, pneumatic and electric are not available and would be illegal to have on a trailer. First, claims 1, 2, 8 and 9 do not specify that the power source has to be located on the trailer. Secondly, page 4 of Appellant's specification admits that these are well-known power sources for brake systems. Since, they are well known power sources, it would be obvious for one of ordinary skill to obtain any one of them as a power source of choice.

Re: claims 3, 5 and 6, Appellant argues only that the combination of claims 1, 3, 5 and 6 on the basis that claim 1 is allowable over Pyle. As stated above, Pyle meets the claimed limitation of claim 1. Furthermore, Appellant inadequately traversed the Official Notice as per MPEP 2144.03.

Re: claims 4, 7, 10 and 11, Appellant argues only that the combination of claims 1, 4, 7, 10 and 11 on the basis that claim 1 is allowable over Pyle. As stated above, Pyle meets the claimed limitation of claim 1.

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Re: claim 12, Appellant relies on the same arguments for claim 12 as in claims 1 and 5. The responses to the arguments of claims 1 and 5 apply to claim 12.

Re: claims 13 and 14, Appellant argues only that the combination of claims 13 and 14 on the basis that claim 12 is allowable over Pyle. As stated above, Pyle meets the claimed limitation of claim 12.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Lan Nguyen

Lan Nguyen 11/7/05

Primary Examiner, AU 3683

Conferees:

Lan Nguyen

XLN

Rob Siconolfi

RS

James McClellan

JM